

# R. L. Craig Company, LLC

Serving the HVAC Industry Since 1955

## Standard Terms and Conditions of Sale

(1) **AGREEMENT OF SALE.** These Standard Terms and Conditions of Sale ("Standard Terms") apply to all goods, including equipment and parts ("Goods") and services ("Services") provided by R.L. Craig Company, LLC or its affiliate listed on the Quotation ("Seller") to or for the purchaser ("Customer") under any purchase order, sales contract, quotation, offer, order acknowledgement, or invoice. Customer accepts these Standard Terms by signing and returning Seller's proposal or quotation ("Quotation"), by sending a purchase order, order acknowledgement, or other purchase document in response to the Quotation, or by instructing Seller to begin work, including requesting shipment of Goods or performance of Services. Seller's Quotation, Seller's invoice(s), and these Standard Terms shall constitute the entire agreement relating to the Goods and Services covered by the Quotation (the "Agreement"), and supersedes all prior or contemporaneous agreements or understandings between the parties relating hereto. No course of dealing, usage of trade or course of performance will be construed to supplement, amend or construe any term, condition or instruction of this Agreement. Section and sub-section headings or captions are provided for convenience only and shall not affect the construction or interpretation of this Agreement. The parties are not relying upon any statements or representations not contained in the Agreement. To the extent that any Customer purchase order, shipping release form, acknowledgment, or other document or form of correspondence sent by Customer is inconsistent with these Standard Terms or contains additional terms, these Standard Terms will control and Customer is hereby notified of Seller's express rejection of any terms inconsistent with or additional to the terms and conditions herein or to any other terms proposed by Customer in accepting Seller's Quotation. Neither Seller's subsequent lack of objection to any such terms, nor the delivery of Goods or performance of Services, shall constitute an agreement by Seller to any such terms.

(2) **CANCELLATION AND MODIFICATION.** In addition to any other rights that Seller may have under applicable law, Seller may at any time alter or suspend credit or refuse to ship Goods, refuse to perform Services, or cancel unfiled orders when, in Seller's reasonable opinion, the financial condition of Customer or the states of Customer's account warrants such action. No modification of the Agreement will be binding upon Seller unless it is in writing, is signed by an authorized representative of Seller, and refers specifically to the Agreement and the portion(s) of the Agreement it is intended to modify. Any agreed-upon changes in specifications, quantity, schedule, materials, or scope of Goods or Services requested by Customer shall be subject to an equitable adjustment in the purchase price, time of performance, or both. No order may be reduced, cancelled, or terminated by Customer without Seller's prior express written consent, in Seller's sole discretion. If Seller consents to cancellation, termination, or reduction, Customer agrees to pay to Seller all costs and expenses incurred and damage sustained by Seller on account of such cancellation, termination, or reduction, plus reasonable allowance for overhead profit. The following provisions of these Standard Terms will survive cancellation or termination of the Agreement for any reason: Sections 1-4 and 7-14.

(3) **PRICE, SHIPMENT, AND PAYMENT.**

(a) All price quotations expire thirty (30) calendar days from the date of the Quotation unless otherwise stipulated in that Quotation. Price and delivery for Goods is F.O.B. point of manufacture (Uniform Commercial Code), unless otherwise provided in the Quotation. Unless noted on the Quotation or Seller's invoice, and subject to the approval of Seller's credit department, all payments are due net thirty (30) days from the date of invoice with no deductions, discounts, or retainages. Any amount not paid by the due date will bear interest from the due date until paid at the rate of the lesser of 2.0% per month or the maximum amount permitted by law. In the event Seller brings suit to collect any amounts due from Customer relating to the sale of the Goods or the Services, Seller shall be entitled to recover its cost of collection, including reasonable attorneys' fees, costs and expenses incurred in collecting such amounts, including any appeal thereof. Seller may, at its sole option, have the right to make any delivery under this Agreement payable on a cash or payment guarantee before shipment basis.

(b) Any price quoted on a Quotation is based upon the price for the Goods quoted to Seller by the original manufacturer thereof, which cost may be affected by changes in availability of materials, market conditions, tariffs, or other factors beyond the reasonable control of Seller or the manufacturer. In the event that the manufacturer of the Goods increases the price of the Goods between the date of the Quotation and the date of shipment, Seller reserves the right to increase the quoted price of the effected Goods by an amount up to the increase in price notified by the manufacturer. For the avoidance of doubt, the foregoing applies irrespective of any delivery term agreed by the parties that might otherwise impose liability for such costs, e.g., tariffs, on Seller (e.g., DDP (Incoterms 2020)).

(4) **TAXES.** Unless otherwise provided in the Quotation, all prices exclude local, state, and federal excise, use, sales or similar taxes, as well as all import and customs taxes, fees, duties, tariffs, and levies or other charges imposed and/or enacted by a government, in each case whether now or hereafter levied or imposed and regardless of how such amounts are designated or imposed, all of which shall be the sole responsibility of Customer ("Excluded Fees"). Seller shall endeavor to include Excluded Fees as a separate item on the invoice(s) submitted to Customer. In the event Seller is required to pay, or does pay, any Excluded Fee on behalf of Customer, Seller shall invoice Customer for such Excluded Fees, which invoice shall be due upon receipt.

(5) **DELIVERY.** The delivery date(s) for the Goods or performance date(s) for Services provided by Seller are each only an estimate and is based upon prompt receipt of all necessary information from Customer. Seller shall use commercially reasonable efforts

to meet the delivery or performance date, but Seller will not be liable for any delay, regardless of cause. Seller reserves the right to ship Goods in advance of any Customer request dates, except those dates stipulated as "Not Before" in writing by Customer. If Customer causes Seller to delay shipment or completion of the Goods, Seller shall be entitled to any and all extra cost and expense resulting from such delay, including, without limitation, charges for packing, storing, and insuring the Goods prior to delivery.

(6) **RISK OF LOSS.** Except as otherwise set forth in the Quotation, once the Goods are shipped, Customer assumes and shall bear all risk of loss, destruction, or damage to the Goods, and, if the purchase price has not been paid prior to shipment, Customer shall be responsible for obtaining and maintaining insurance against such loss in an amount sufficient to cover the entire purchase price of the Goods until the purchase price has been paid in full.

(7) **SECURITY AGREEMENT.** Title to the Goods will remain in Seller until the purchase price for the Goods and any Services related thereto has been paid in full. As security for the full payment of the price for the Goods and Services, Customer hereby (a) grants to Seller a security interest in and (b) authorizes Seller to execute and file financing statements pertaining to, the Goods and all proceeds thereof. Customer will notify Seller in writing within thirty (30) days of any change of Customer's name or state of organization and take such other action as Seller deems necessary to protect its security interest. The termination of this Agreement shall not be construed as termination of the security interest hereunder. The Goods shall remain personal property and retain its character as such no matter in what manner affixed or attached to any structure or property. Until the price for the Goods and Services is paid in full, Customer shall keep the Goods free of all liens, taxes, encumbrances, seizure or levy and shall not sell, loan or otherwise transfer possession of the Goods without the written permission of Seller. In the event of attachment or execution being levied against the Goods, the bankruptcy of the Customer or any default by Customer in payments due to Seller, Seller, in addition to all other rights and remedies available to it, may seize the Goods and all payments made to the date of such repossession shall be considered as rent for the Goods.

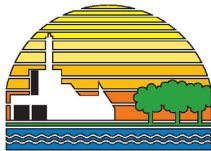
(8) **INSPECTION AND ACCEPTANCE.** Customer will inspect the Goods immediately upon receipt and, unless a different time is provided in the Quotation, will have three (3) days thereafter to give written notice to Seller of any claim that the Goods are of insufficient quantity, do not conform to the agreed upon terms and/or that they contain material defects. If Customer fails to give such notice, Customer will be deemed to have accepted the Goods as conforming to the Agreement. Customer waives any rights Customer may have otherwise had after the expiration of such three (3) day period to revoke acceptance or claim breach of warranty with respect to any material defects that could have been discovered with reasonable diligence upon such inspection.

(9) **LIMITATIONS OF LIABILITY.** NOTWITHSTANDING ANYTHING IN THE AGREEMENT THAT MAY BE CONSTRUED TO THE CONTRARY AND TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW (a) IN NO EVENT WILL SELLER, IT AFFILIATES, OR THEIR RESPECTIVE OWNERS, DIRECTORS, OFFICERS, MANAGERS, EMPLOYEES, REPRESENTATIVES, OR AGENTS (THE "SELLER PARTIES"), BE LIABLE FOR ANY DELAY, WORK STOPPAGE, LOSS OF USE OF MACHINERY, LOSS OF TIME, INCONVENIENCE, LOSS OF PROFITS, OR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, WHETHER RESULTING FROM, ATTRIBUTABLE TO, OR BASED ON DEFECTS IN THE GOODS AND SERVICES, NEGLIGENCE (INCLUDING GROSS NEGLIGENCE) OR OTHER TORT, WARRANTY, CONTRACT, INDEMNITY, BREACH OF ANY PROMISE TO REPAIR OR REPLACE THAT MAY BE CONTAINED HEREIN, STRICT LIABILITY OR OTHERWISE, AND (b) THE MAXIMUM AGGREGATE LIABILITY, IF ANY, OF THE SELLER PARTIES FOR ALL DIRECT DAMAGES, INCLUDING WITHOUT LIMITATION ALL CONTRACT DAMAGES, WHETHER RESULTING FROM, ATTRIBUTABLE TO, OR BASED ON DEFECTS IN THE GOODS AND SERVICES, NEGLIGENCE (INCLUDING GROSS NEGLIGENCE) OR OTHER TORT, WARRANTY, CONTRACT, INDEMNITY, BREACH OF ANY PROMISE TO REPAIR OR REPLACE THAT MAY BE CONTAINED HEREIN, STRICT LIABILITY OR OTHERWISE WITH RESPECT TO ANY GOODS AND SERVICES, IS LIMITED TO AN AMOUNT NOT TO EXCEED THE PURCHASE PRICE OF THE PARTICULAR DEFECTIVE GOODS OR SERVICES.

(10) **FORCE MAJEURE.** Seller will not be liable for any delay in or impairment of performance resulting in whole or in part from a situation outside of Seller's reasonable control, including, without limitation, epidemics, pandemics or other human health crisis; fires, floods, earthquakes, or other catastrophes; strikes, lockouts or labor disruptions; wars, riots, civil commotion, vandalism, terrorist acts, or embargo delays; government allocations or priorities; shortages of fuel, labor or materials, failures of transportation equipment, or transportation delays; severe weather conditions; or any applicable governmental or judicial law, regulation, order or decree.

(11) **JURISDICTION; ATTORNEYS' FEES; JURY WAIVER.**

(a) **GOVERNING LAW & VENUE.** The Agreement will be governed by the laws of the State of Delaware, without reference to its choice of law rules. The United Nations Convention on Contracts for the International Sale of Goods, and the 1974 Convention on the Limitation Period in the International Sale of Goods, as amended by the 1980 Vienna Protocol, will not apply. With respect to any dispute, claim or controversy arising under, out of, in connection with or relating to the Agreement or the Goods or Services provided, or any course of conduct, course of dealing, statements (oral or written), or actions of Seller or Customer relating to the Agreement, the Goods or



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Services, Customer agrees that any action at law, suit in equity or other judicial proceeding for the enforcement of this Agreement or any provision hereof shall be instituted only in the United States federal or state courts located within the State of Delaware; provided, however, that Seller at its option may elect to sue Customer at its principal place of business or in any jurisdiction in which the Goods or other assets of Customer may be found. Notwithstanding the foregoing, this Section 11(a) does not apply to orders for the ultimate benefit of, or funded in whole or in part by, a state, local, or federal government agency where such government agency is prohibited from agreeing to Delaware as governing law and venue. Such orders will instead be governed by the state law required to be applied by such governmental agency.

(b) **ATTORNEYS' FEES.** In the event of any suit, action, or proceeding based on the Agreement or the Goods or Services, the substantially prevailing party will be entitled to recover from the other party its reasonable attorneys' fees, costs, and expenses incurred in such dispute, including any appeal thereof.

(c) **JURY TRIAL WAIVER.** TO THE FULLEST EXTENT PERMITTED BY LAW, SELLER AND CUSTOMER HEREBY KNOWINGLY AND VOLUNTARILY WAIVE ANY RIGHTS THAT EITHER OF THEM MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY DISPUTE, CLAIM, OR CONTROVERSY BASED ON THE AGREEMENT OR THE GOODS OR SERVICES.

### (12) WARRANTY.

(a) Customer acknowledges that the Goods are not of Seller manufacture and are warranted only to the extent that they are warranted by the original manufacturer thereof. Seller shall provide Customer with any warranty document or information provided by the original manufacturer, and shall execute and deliver any documents reasonably necessary to assign the manufacturer's warranty to Customer. Manufacturer warranties are often conditioned upon the Goods being stored, maintained, and operated in accordance with industry standard practices and/or the manufacturer's instructions or manuals, so Customer is encouraged to carefully read all manufacturer warranty documentation. SELLER DOES NOT MAKE, AND EXPRESSLY DISCLAIMS, ANY OTHER WARRANTIES WITH RESPECT TO THE GOODS, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND CUSTOMER ACKNOWLEDGES AND AGREES THAT THE ONLY WARRANTIES MADE WITH RESPECT THERETO ARE THE WARRANTY (IF ANY) PROVIDED BY THE ORIGINAL MANUFACTURER OF THE GOODS.

(b) Seller warrants that the Services provided will be performed in a workmanlike manner. The sole remedy for any breach of this warranty for the Services in the reperformance of the Services by Seller without additional charge.

(c) THE WARRANTIES IN THIS SECTION 12 (AND THE MANUFACTURER'S WARRANTY, IF ANY) ARE THE ONLY WARRANTIES APPLICABLE TO ANY GOODS AND SERVICES AND ARE EXPRESSLY IN LIEU OF ANY WARRANTIES OR CONDITIONS OTHERWISE IMPLIED BY LAW, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SELLER ASSUMES NO OTHER OBLIGATION OR RESPONSIBILITY WITH RESPECT TO THE CONDITION OF THE GOODS OR THE SERVICES, AND DOES NOT AUTHORIZE ANY OTHER PERSON TO ASSUME FOR SELLER ANY OTHER OBLIGATION OR LIABILITY.

(13) **ASSIGNMENT.** Customer may not assign its rights under this Agreement without Seller's prior written consent. Seller may assign its rights under this Agreement, including the right to any moneys due or to become due hereunder, at any time and upon receiving notice of such assignment, Customer shall make payments to the assignee as directed.

### (14) MISCELLANEOUS

(a) **CHANGES OF CONSTRUCTION AND DESIGN:** The manufacturers represented by Seller each reserves the right to change or revise the construction and design of its products at any time, and Seller shall have no liability or obligation to incorporate such changes to the Goods ordered by Customer unless specifically agreed upon in writing reasonably in advance of the delivery date for the Goods. If after the date of the Quotation, a change in law, rule, or regulation (including local building codes) requires modifications or alterations to the Goods to ensure legal compliance, Customer agrees to bear the expense of meeting any such changes or modifications.

(b) **INSTALLATION:** If installation by the Seller is included within the Seller's Quotation, Customer shall provide all of the following at its own expense and at all times pertinent to the installation: (i) free, dry, and reasonable access to the project site premises; (ii) proper foundations, lighting, power, water and storage facilities reasonably required; and (iii) any other access, items, services, or utilities required to be provided by Customer under the Quotation.

(c) **COMPLIANCE WITH LAWS:** Seller's obligations are subject to the applicable export administration and control laws and regulations of the United States. Customer shall comply fully with such laws and regulation in the export, resale, or disposition of the Goods. Quotations or proposals made, and any orders accepted by Seller from a Customer outside the United States are with the understanding that the ultimate destination of the Goods is the country indicated therein. Diversion of the Goods to any other destination contrary to the United States is prohibited. Accordingly, if the foregoing understanding is incorrect, or if Customer intends to divert the Goods to any other destination, Customer shall immediately inform Seller of the correct ultimate destination.

(d) **SEVERABILITY.** If any provision of this Agreement is determined to be invalid, illegal or unenforceable, the remaining provisions will remain in full force and will be interpreted in order to best attain the parties' intentions as set forth in this Agreement.

(e) **WAIVER.** No delay or omission to exercise any right or remedy accruing to Seller upon any breach or default of Customer shall impair any such right or remedy or be construed to be a waiver of any such breach or default, nor shall any waiver of any single breach be deemed a waiver of any other breach or default theretofore or thereafter occurring.

(f) **NO THIRD-PARTY BENEFICIARIES.** The parties hereto agree that the Agreement shall inure only to the benefit of the parties hereto and their respective successors and assigns and to no third parties, other than the Seller Parties with respect to the limitation of liability provided hereunder.

(g) **COUNTERPARTS.** The Agreement may be executed and delivered by electronic means (including electronic signature) and in any number of counterparts, each of which, when so executed and delivered, shall be deemed to be an original and all of which taken together shall constitute one and the same instrument.

(h) **NOTICE.** All notices, requests, demands, designations, consents or other communications provided for herein or which shall be made pursuant hereto shall be in writing and shall be deemed to have been given and received when either (i) delivered by registered or certified United States mail, postage prepaid, return receipt requested, (ii) delivered personally, or (iii) upon confirmation of receipt, if delivered by email, in each case to the address for the receiving party noted in the Quotation. In addition, a copy of all notices sent by Customer to Seller shall be sent to AIR Control Concepts, LLC, Attn: Legal, 4850 Brookside Court, Suite 100, Norfolk, VA 23502, [legal@aircontrolconcepts.com](mailto:legal@aircontrolconcepts.com).